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CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular City Council Meeting - September 24, 2013

An Adjourned Regular Meeting of the San Clemente City Council was called to order on September 24, 2013 at 4:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Baker.

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

* Arrived at 5:07 p.m.
**Arrived at 4:10 p.m.

ABSENT NONE

STAFF PRESENT Pall Gudgeirsson, City Manager; Jeff Goldfarb, City Attorney; Joanne Baade, City Clerk; George Aghabegians, Deputy City Clerk.

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PLEDGE OF ALLEGIANCE

Councilmember Hamm led the Pledge of Allegiance.

PUBLIC HEARINGS

A. **Introduction to the Draft Centennial General Plan, Draft Environmental Impact Report, Draft Bicycle and Pedestrian Master Plan, and Draft Climate Action Plan**

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

Mayor Baker welcomed all in attendance and expressed appreciation to everyone who was involved in the General Plan process, especially the GPAC, Planning Commission, staff, consultant and public.

Community Development Director Holloway explained that the Centennial General Plan is designed to take the City to the year 2028; narrated Slides 1

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through 9 of a PowerPoint presentation entitled "City Council Hearing: Centennial General Plan, EIR, Climate Action Plan and Bicycle and Pedestrian Master Plan". Mr. Holloway's portion of the PowerPoint focused on the purpose of the General Plan. A hard copy of the PowerPoint presentation, dated September 24, 2013, is on file with the City Clerk. During his presentation, Mr. Holloway explained that Council is being requested to provide General Plan policy direction at this time, noting that a number of on-going Code amendments will follow with implementation occurring from 2014 to 2028; introduced members of Staff, the Planning Commission, and The Planning Center.

Brian Judd, Principal with The Planning Center, narrated Slides 10 through 23 and responded to questions. Mr. Judd's portion of the PowerPoint focused on the process utilized to develop the draft General Plan, community goals and guiding principles, an overview of the General Plan elements, Citygate report recommendations from 2010, and proposed General Plan land uses.

City Planner Pechous narrated Slides 24 through 46 relating to the Urban Design Element and responded to Council inquiries.

Mr. Judd narrated Slides 47 through 48 relating to Trees and Views, as well as Slides 49 through 52 pertaining to the Environmental Impact Report.

Nicole Morse, The Planning Center, continued the EIR presentation by narrating Slides 53 through 63; responded to Council inquiries.

Chris Gray, Transportation Engineer with Fehr & Peers, responded to Council inquiries relating to traffic and circulation issues and associated mitigation measures.

Mr. Judd narrated Slides 64 through 65 relating to the Bicycle and Pedestrian Master Plan, Climate Action Plan, and Centennial General Plan Adoption and Implementation process, and responded to Council inquiries.

During the course of discussion, individual Councilmember(s) expressed personal opinions as follows. The below comments do not necessarily reflect Council consensus:

1. The draft General Plan is an outstanding document that reflects a successful collaborative effort.
2. Consideration should be given to dispersing affordable housing areas more evenly throughout the city.
3. Council should discuss whether the designation of the civic center site should be changed from a civic center designation to residential medium-density with an affordable housing overlay.

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4. Affordable housing overlays should be included in the key and color-coded on all applicable General Plan maps.
5. Any intensification in Floor Area Ratio on South El Camino Real east of the I-5 to E. Avenida San Gabriel (near the southern Pedro's) would be of concern. It was agreed that the first sentence of Item 16 on Page UD 15 will be expanded to clarify the intent of the section as follows: "We will prepare and adopt urban design guidelines for the South El Camino Real corridor *west of the I-5* to direct building mass and scale and to allow new three-story buildings or building elements that meet specific standards and that protect designated public view corridors."
6. There was a brief discussion on whether the word "safe" should be included wherever sidewalks are referenced. Mr. Judd noted that including the word "safe" was originally suggested, but not included due to concern that it could create liability issues. This issue will be considered later in the meeting.
7. Technical reports should be clearly labeled and linked to the General Plan to facilitate easy public access.
8. The Draft Mobility and Complete Streets Element is bicycle-centric and should be modified to represent a balanced transportation system.
9. Council should be informed of significant legal expenses associated with the Zoning Code, Local Coastal Plan and Specific Plan updates as soon as possible. City Manager Gudgeirsson indicated that a line item for this purpose will be created within the next fiscal year budget.
10. Language should be included in the General Plan and implementation measures that explain that the documents will be reviewed periodically to ensure that the Plan and implementation measures are working and that progress is being made toward achievement of established goals.

Mayor Baker opened the Public Hearing.

Gail Burke, San Clemente, suggested that the City needs regulations for home occupation permits and opined that the City's business license program needs improvement.

Kirk Kegel, San Clemente, described the impacts to himself and his home business when his neighbor acquired chickens; noted that the problem did not subside when his neighbor relocated the chickens 100 feet from his home; urged that chickens not be permitted in the City.

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Brenda Miller, San Clemente, voiced concern that Policy M-1.01.c of the Draft Mobility and Complete Streets Element undermines the City's stated intention to become a complete streets town in letter and spirit, since it implies that complete streets is the exception and not the rule; opined that the subject Policy is also in conflict with Policies M.1.04 and M-2.16.

Michael Metcalf, San Clemente, spoke on the importance of complete streets; voiced concern that some language in the Mobility and Complete Streets Element conflicts with public policy and noted that he sent Council an email that identified his specific concerns; cited, as an example, that Policy M-1.01.a states "Accommodate public transit, motor vehicles, bicyclists, skateboarders and pedestrians within the public right-of-way wherever feasible"; opined that the words "wherever feasible" provide an opportunity to bypass City policies.

Larry Culbertson, President of the San Clemente Historical Society, stated that nearly 2,000 persons signed a petition urging that building height in the historic Downtown be limited to two stories; distributed a petition signed by 23 persons who support limiting future buildings in the historic Downtown area to two stories; stated that a survey taken in 2009 revealed that 86% of respondents believe that the top goal for the City should be to retain the City's unique village character; stated that 96% of the buildings on the 100 and 200 blocks of Del Mar are one or two story, which represent pedestrian scale; spoke in opposition to mixed use development on small lots.

Patricia Holloway, Founder of the San Clemente Tree Foundation, voiced concern that the City has not always guarded mature trees and, as a result, homeowner associations have been able to cut down public street trees; displayed photographs of sycamore trees being removed in the Rancho San Clemente neighborhood; urged that the City re-commit itself to preserving street trees when it updates its scenic corridors plan; recommended that the City adopt a tree preservation ordinance and become a Tree City USA.

Don Kunze, San Clemente, stated that the Planning Commission never addressed open space in its consideration of the General Plan; spoke in support of retaining open space, including the Marblehead Coastal property, and questioned whether the public is allowed to use the trails on Marblehead Coastal; inquired about the allowable re-use of the El Camino Real Market property after it is sold and the number of stories that will be allowed.

Alan Korsen, San Clemente, stated that the Vision and Strategic Plan of 2009 stated that preservation of the heart and soul and character of the City's historic Downtown is the top priority for the vast majority of residents; spoke in opposition to three-story development in the Downtown T-zone; voiced concern that intensification of development will negatively impact the City's aesthetics, small town character, sense of community, civic pride and traffic.

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Mark McGuire, San Clemente, questioned the accuracy of the Draft Land Use Element Map since it reveals a mixed use overlay in North Beach with an FAR of 1.0, even though a higher FAR is allowed for other mixed uses in that area; stated that property at the upper end of Avenida Pico is designated in the Talega Specific Plan as Commercial, but can never be developed because it serves as habitat for the gnatcatcher; recommended that the property be re-designated as Open Space; commented on the importance of following through with zoning modifications after the General Plan is adopted; suggested that Staff's Centennial General Plan Adoption and Implementation Flow Chart should be modified to reflect that the Land Use Plan/Specific Plans will be updated before the Local Coastal Plan is adopted.

Georgette Korsen, San Clemente, spoke in support of limiting building height in the heart of the Downtown to two stories to reflect resident values; supported the goals of the San Clemente Tree Foundation to protect trees, increase the City's tree canopy, and promote adoption of a Tree Preservation Ordinance.

Don Prime, San Clemente, stated that San Clemente's "unique village character" has never been defined and related that his support for unique village character should not be interpreted as support for a ban on three-story development in the Downtown; conveyed hope that Council will consider the unintended consequences of a ban on three-story development and urged that Council not take away property rights.

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

MEETING RECESSED

Council recessed at 7:00 p.m. and reconvened at 7:36 p.m., with all members present.

During the ensuing discussion, Mr. Judd and Staff responded to inquiries raised as follows:

Planning Consultant/Staff Responses to Council Questions/Comments

1. ***Affordable Housing:*** Three properties, east of the I-5, have been identified in the General Plan for Affordable Housing overlays. Methods to encourage affordable housing city-wide will be evaluated as part of the Housing Element update. The proposed Land Use Map will be modified to include graphics to show the location of the Affordable Housing Overlays.
2. ***Designation of Current City Hall Site:*** Whether or not the civic center site should be changed from a civic center designation to a residential medium-density designation with an affordable housing overlay is a policy call for Council. Mr. Judd offered to prepare a listing of pros and cons

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associated with maintaining the civic center designation versus changing the designation to residential medium-density with an affordable housing overlay.

3. **Land Use - South El Camino Real East of I-5:** No land use changes, changes to building heights, or changes to allowable stories are proposed for this area. The first sentence of Item 16 on Page UD 15 will be expanded to clarify the actual intent of the section as follows: "We will prepare and adopt urban design guidelines for the South El Camino Real corridor *west of the I-5* to direct building mass and scale and to allow new three-story buildings or building elements that meet specific standards and that protect designated public view corridors."
4. **Use of the Word "Safe" to Describe Sidewalks:** While the City strives to design its streets and sidewalks in a manner that is as safe as possible, using the word "safe" in the General Plan could be problematic. The word "safe" is vague, could create liability problems, and could result in people attempting to block projects on the grounds that the sidewalk in front of a project is not safe enough and hence not in compliance with the General Plan. Council requested that Staff evaluate whether reference to "safe" sidewalks should be included in the City's mission, values or guiding principles.
5. **Availability of the January 2013 Mobility and Complete Streets Element Technical Background Report:** The Technical Background Report is included in the Draft General Plan EIR Appendices and is available on the City's website, CDs attached to the Draft EIR, and the Public Library. Staff/Consultant will follow-up to ensure that the Traffic Report is clearly labeled and easy to find.
6. **Relocation of Implementation Measures:** Implementation Measures will be relocated from the General Plan to the Strategic Implementation Program. Implementation Measures will be prioritized in the Strategic Implementation Plan.

Planning Consultant/Staff Responses to Questions/Comments from the Public

1. **Business License Program:** This is not a General Plan issue, but something that the City could look into if desired.
2. **Chickens in the City:** The issue of whether or not chickens should be allowed in the City is not a stated policy in the General Plan, but is addressed as an implementation measure. The implementation measure states that the City will study the issue and consider possible Zoning Ordinance amendments after adoption of the General Plan. No policy commitments are proposed in the General Plan.

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3. ***Mobility and Complete Streets Element:*** Policies 1.04 and 2.16 are not in conflict. The goal of the Mobility and Complete Streets Element is to create a balanced transportation system that takes into account people driving cars, people utilizing public transit, bicyclists and pedestrians. Having a level of service goal for automobiles does not preclude the City from effective multimodal planning. Public Works Director Cameron explained that San Clemente, and other Orange County cities, have traditionally used Level of Service D as their standard for intersections. If the City lowers its Level of Service standard from D to E, it is saying that it would allow much more traffic in the City than is currently allowed. The language in the Mobility and Complete Streets Element recognizes that the city may wish to introduce multimodal street improvements that may result in a reduction in intersection capacity.
4. ***Utilization of the Phrase "where feasible" in the Mobility and Complete Streets Element:*** The terminology in question follows the environmental laws of the State of California and the federal government. If the General Plan lacks flexibility, it could preclude projects unless the General Plan is amended.
5. ***Identification of Open Space Areas in the General Plan:*** Figure LU-1, the Land Use Plan, identifies open space areas. No development opportunities are proposed for areas currently designated for open space.
6. ***Story Levels for Mixed Use Areas on S. El Camino Real East of the I-5:*** The Mixed Use designation for S. El Camino Real east of the I-5 currently has a two-story limit and no change is proposed.
7. ***Building Heights Downtown:*** Council discretion.
8. ***Mixed Use Overlay in North Beach:*** Staff and the Consultant will determine whether the proposed FAR of 1.0 for this property is consistent with surrounding mixed use areas.
9. ***Change in Designation for Property on Upper End of Avenida Pico to Open Space:*** Council expressed an interest in changing the designation of the property at the far end of Avenida Pico from Commercial to Open Space, and requested that staff communicate with Talega Associates to obtain its input on this proposal.
10. ***Timing of the Local Coastal Plan and Specific Plans:*** The City is not committing to the order in which the Local Coastal Plan (LCP) and Specific Plans will be processed. It was noted that processing the LCP through the Coastal Commission may be a lengthy process.

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Council reviewed the Land Use Element by page and provided the following directions. Council indicated that those areas not raised for discussion can be assumed to be accepted as written.

Land Use Element Page	Issue	Council Direction
LU-3	Primary Goal #3 states "allow for some intensification of commercial and industrial districts to maintain economic vitality, while preserving or enhancing their character." Concern was expressed that the verbiage as written implies that intensifying uses necessarily creates economic vitality.	Verbiage to be modified to read as follows: "allow for some intensification of commercial and industrial districts while maintaining their character."
LU-4	Concern was expressed that height and story level restrictions are not included in Table LU-1 (General Plan Land Use Designations Summary Table). Mr. Judd indicated that this information will be included in the final General Plan.	The column in Table LU-1 relating to "Maximum Number of Stories/Building Height" is to be completed in final General Plan.
LU-11	One of the goals on this page states "support the goals and policies of the Economic Development Element". Council pointed out the importance of keeping cross-referenced elements synchronized if changes are made to an element.	Point was acknowledged by Staff and the Planning Consultant.
LU-12 and LU-13	Council discussed whether or not the Mixed Use designation on the 100 and 200 blocks of Avenida Del Mar should remain.	No change to language as written. Staff to study height limits for Avenida Del Mar in greater detail. Established height limits can be incorporated into an implementation measure.
LU-13	Goal states "Promote and support mixed use development...". Discussed whether "Allow mixed use development..." would be more appropriate than taking an advocacy position.	Goal to be modified to read "Promote and support development that is attractively designed, adds vitality and pedestrian activity, enhances economic opportunities, reduces vehicle trips and associated air pollution and offers convenient and affordable housing opportunities for all income levels, in the mixed use zone."
LU-16	A suggestion was made that LU-5.02 should be modified to reference "Fueling Stations" as opposed to "Gasoline Stations" so as to stage for alternative fuels.	LU-5.02, as well as any other reference in the General Plan to "gasoline stations", will be replaced with "fueling stations".

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<p>LU-21</p>	<p>Council questioned whether the Talega Business Park was excluded intentionally as a Focus Area.</p>	<p>Staff and the Planning Consultant are to broaden the policy goals, as appropriate, to include the Talega Business Park, Target, Plaza Pacifica and Shops at Talega. It was noted that it may be desirable to develop separate policy goals for retail versus commercial uses.</p>
<p>LU-25</p>	<p>Council discussed LU-10.02 (Miramar Theatre Rehabilitation) which reads as follows: "We encourage the rehabilitation and adaptive reuse of the historic Miramar Theatre as a movie theater, performing arts center or other high quality cultural use". A suggestion was made that the policy should not be specific given the challenges of the site.</p>	<p>Policy LU-10.02 is to be shortened to read as follows: "We encourage the rehabilitation and adaptive reuse of the historic Miramar Theatre."</p>
<p>LU-25</p>	<p>Council referenced LU-10.04 (Beach Access) which reads as follows: "We preserve and enhance safe, convenient pedestrian and bicycle linkages to the shoreline for community and visitor access." Suggested adding the word "vehicle".</p>	<p>LU-10.04 to be expanded to read as follows: "We preserve and enhance safe, convenient <i>vehicle</i>, pedestrian and bicycle linkages to the shoreline for community and visitor access."</p>
<p>LU-25</p>	<p>Council noted that LU-10.05 (Ocean Views) reads as follows: "We preserve the General Plan-designated public view corridor from Avenida Pico through North Beach and encourage new development along El Camino Real to take advantage of ocean vistas." Council noted the desirability of including visual depictions in the General Plan to demonstrate scenic view corridors. It was noted that electronic versions of the General Plan will be searchable and will include links to large maps and other information.</p>	<p>General Plan to include full-page size photographs/maps identifying scenic view corridors.</p>

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<p>LU-32</p>	<p>Council referenced LU-13.01 (Alleys/Paseos) which reads as follows: "We consider improvements to our alleyways to provide alternative pedestrian and bicycle routes." Concern was voiced that language relating to alleys and paseos varies throughout the various Focus Areas (for example, LU-10.10 includes the same sentence as LU-13.01, but includes the words "where appropriate" at the end.) Discussed the possibility of 1) strengthening the verbiage since alleyways and paseos will be utilized for pedestrian and bicycle movements, and 2) expanding the verbiage to reference the possibility of adjacent property owners assisting in the improvement of alleyways and paseos (possibly similar to the City's sidewalk program). Discussed the possibility of including the word "vehicles" in the Policy.</p>	<p>Verbiage relating to alleys and paseos is to be made consistent throughout the downtown Focus Areas. It was noted that some of the paseos are simply pass-throughs for pedestrians and bicyclists and hence the inclusion of the word "vehicle" would be inappropriate. Also, part of the intent of the Policies is to evolve vehicle-centric alleyways to accommodate other modalities (such as bicycles and pedestrians). The Planning Consultant and Staff are to develop language that will better explain the intent of the language.</p>
<p>LU-37</p>	<p>Council referenced Land Use Implementation Measure #3 which states "Examine the feasibility of a shuttle or trolley type transit system that connects San Clemente's key destination areas (e.g., North Beach, Del Mar/T-Zone, Marblehead and Pier Bowl) with public transit and bicycle routes." Discussed the possibility of including "residential areas" in this statement and/or modifying the verbiage to be more resident based as opposed to visitor based.</p>	<p>Language to be modified to read: "Consider a community-serving shuttle or trolley type transit system that connects San Clemente's key destinations (e.g., North Beach, Del Mar/T-Zone, Marblehead and Pier Bowl) and residential areas with public transit and bicycle routes."</p>
<p>LU-37</p>	<p>Council referenced Land Use Implementation Measure 12 which reads as follows: "Work with U.S. Postal Service to explore opportunities to close, or to relocate the post office located on Avenida Pico to a more appropriate location to provide opportunities for improved circulation and new development opportunities with a master plan for the Pico Plaza area." Discussed omitting the words "to close" or striking Measure 12 in its entirety.</p>	<p>Land Use Implementation Measure 12 to be modified to read as follows: "Work with U.S. Postal Service to explore opportunities to relocate the post office located on Avenida Pico to a more appropriate location to provide opportunities for improved circulation and new development opportunities with a master plan for the Pico Plaza area."</p>
<p>LU-37</p>	<p>Council referenced Land Use Implementation Measure 10 which reads as follows: "Identify a local champion for fostering an arts and design business incubator district." Council discussed whether or not the implementation measure's arts/design emphasis, and lack of specificity relative to the duties of the local champion, are appropriate.</p>	<p>Land Use Implementation Measure 10 to be amended along the lines of the following: "Foster and support local efforts to invite art and design businesses consistent with the vision of the Los Molinos district."</p>
<p>LU-37</p>	<p>Council referenced Land Use</p>	<p>Council cautioned about the</p>

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	<p>Implementation Measure 14 which reads as follows: "Develop new flexible use standards in the Zoning Ordinance to accommodate changing market demands." The Planning Consultant explained the intent of the Policy.</p>	<p>importance of remaining sensitive to adjacent residential uses.</p>
LU-38	<p>Council referenced Land Use Implementation Measure 24 for South El Camino Real (west of I-5) which reads as follows: "Create new development standards for mixed use, including stand-alone corridor residential uses." The Planning Consultant explained the intent of the Policy. Staff noted that the current zoning for the area allows for stand-alone corridor residential uses.</p>	<p>No change to language as written. Issue to be considered in conjunction with the Zoning Ordinance update.</p>
LU-38	<p>Council referred to Land Use Implementation Measure 15 which reads, in part, as follows: "We will identify a qualified public or private sector professional to help manage or enhance the retail "synergy" of Downtown land uses and work with the DBA and Downtown property owners to identify funding sources for such a position..." . Discussion ensued relative to the entity that would identify the professional, the party responsible for funding the position, and whether verbiage of this nature (as expanded to reference the entire city) is more appropriately located within the Economic Development Element.</p>	<p>Land Use Implementation Measure 15 is to be deleted in its entirety.</p>
LU-38	<p>Council referenced Land Use Implementation Measure 16 which reads as follows: "Initiate a General Plan catalyst project by funding improvements for the rehabilitation and reuse of the Miramar Theater." Council disagreed with the measure inasmuch as it calls for the City to initiate the project.</p>	<p>Land Use Implementation Measure 16 is to be deleted in its entirety.</p>

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<p>LU-38</p>	<p>Council referenced Land Use Implementation Measure 21 which reads as follows: "Develop an Access Enhancement Plan to reduce congestion, possibly including shuttle services and bicycle facilities." Planning Consultant defined "access enhancement plan" and explained the intent of the measure. In response to Council concern that establishing too many measures could be problematic from an implementation standpoint, the Planning Consultant noted that the implementation measures will be prioritized and phased at a later date. Additionally, Staff pointed out that a concerted effort was made by the Planning Commission and GPAC to establish implementation measures to support each identified policy.</p>	<p>"Access Enhancement Plan" is to be replaced with a more-understandable term.</p>
<p>LU-38</p>	<p>Council discussed adding the words "and pier" to the description of the Pier Bowl and to also include an implementation directive that recognizes that the City will protect the historic resource since the RDA is no longer in existence. Staff pointed out that page BPR-13, Implementation Measure 12, reads as follows: "Continue to maintain and enhance the City's beaches and Municipal Pier and seek outside funding sources to help support these efforts."</p>	<p>References in the General Plan to the "Pier Bowl" are to be expanded to include the words "and pier", where appropriate. Policies to be added that provide for the preservation and enhancement of the pier as well as pier maintenance.</p>
<p>LU-38</p>	<p>Council referenced Land Use Implementation Measure 22 which reads as follows: "Working with the Chamber of Commerce, Downtown Business Association, Pier Bowl Merchants' Association, property owners and business (sic), support efforts to develop economic development tools to aid in the area's continued revitalization."</p>	<p>Land Use Implementation Measure 22 to be revised to replace the word "business" with "businesses and other organizations."</p>
<p>LU-39</p>	<p>Council discussed Land Use Implementation Measure 26 which reads as follows: "Consider traffic calming strategies in the neighborhood retail center (between Avenida Cadiz and Esplanade)." Concern was voiced with regard to the locational specificity of the measure.</p>	<p>Land Use Implementation Measure 26 to be revised to read as follows: "Consider traffic calming strategies in the area."</p>

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<p>LU-39</p>	<p>Council referred to Land Use Implementation Measure 28 which reads as follows: "Develop a new streetscape and landscaping plan and Safe Routes to School program to implement the Mobility and Complete Streets Element and Bicycle and Pedestrian Master Plan." Council noted the significant costs associated with implementing the subject measure. A point was raised that if the City applies for Safe Routes to School grant funding, and the grant application is denied, that the City may be obligated to fund the improvements or risk liability. Staff noted that there is a section in the Bicycle and Pedestrian Master Plan on Safe Routes to Schools. Discussed whether language relating to Safe Routes to Schools should be deleted.</p>	<p>Staff is to meet with City legal counsel to determine if there is merit associated with deleting reference to "Safe Routes to Schools" from the General Plan and Bicycle and Pedestrian Master Plan.</p>
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Council continued discussion of the General Plan to the Council meeting of October 1, 2013.

ADJOURNMENT

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to adjourn at 9:38 p.m. to an Adjourned Regular Meeting to be held on October 1, 2013 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 4:30 p.m. The business meeting will commence at 5:00 p.m.


 CITY CLERK of the City of
 San Clemente, California

 MAYOR of the City of
 San Clemente, California

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.

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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, advertizing 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.


CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California