



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

November 1, 2016
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...

4:30 P.M. CLOSED SESSION (Special 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: San Clemente Vacation Rental Alliance v. City of San Clemente
Case Number: OCSC 30-2016-00858999-CU-WM-CJC

Case Name: Brault v. City of San Clemente
Case Number: OCSC 30-2016-00843347-CL-MC-CJC

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

Case Name: Americare Medservices, Inc. v. City of San Clemente, et al.
Case Number: USDC 8:16-cv-1852 AG

Closed Session items continued on next page

B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)

Number of potential cases: 1

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: 7,038 sq. ft. vacant land parcel located at 754 Avenida Acapulco

APN: 690-372-03

Agency negotiator: Assistant City Manager

Negotiating parties: City of San Clemente and Frank G. Bassett

Under Negotiation: Price and Terms of Payment

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8:

Property: 10,000 sq. ft. vacant land parcel located at 200 Trafalgar Ln.

APN: 629-252-22

Agency Negotiator: Assistant City Manager

Negotiating Parties: City of San Clemente and Robert D. Schumacher

Under Negotiation: Price and Terms of Payment

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

CALL TO ORDER

INVOCATION - Roger Gales, Pastor, Heritage Christian Church

PLEDGE OF ALLEGIANCE

ROLL CALL

1. Special Presentations.

A. San Clemente High School Update

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

B. Planning Commission Update

Presentation by Don Brown, Planning Commission Chair, concerning Planning Commission activities.

C. **Presentation of Certificate of Achievement for Excellence in Financial Reporting – Jake Rahn, Financial Services Officer**

Presentation to Jake Rahn, Financial Services Officer, of a Certificate of Achievement for Excellence in Financial Reporting, that was awarded to the City by the Government Finance Officers Association (GFOA).

D. **Friends of the Reserve Commission Update**

Presentation by Laurie Gooch, Talega Homeowners Association representative to the Friends of the Reserve Commission, concerning Reserve activities and events.

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 minutes of the Regular City Council Meeting of October 18, 2016.](#)

B. Receive and file:

1. [Minutes of the Regular Coastal Advisory Committee Meeting of September 8, 2016.](#)
2. [Minutes of the Regular Study Session of the Planning Commission of October 5, 2016.](#)
3. [Minutes of the Adjourned Regular Planning Commission Meeting of October 5, 2016.](#)
4. [Minutes of the Regular Zoning Administrator Meeting of October 19, 2016.](#)
5. [Minutes of the Adjourned Regular Planning Commission Meeting of October 19, 2016.](#)

C. Warrant Register

[Wire Transfer Nos. 1563 through 1566 and Warrant Nos. 536417 through 536584 paid on 10/14/2016, in the amount of\\$1,795,868.69](#)

[Warrant Nos. 536585 through 536798 paid on 10/21/2016, in the amount of\\$3,073,028.49](#)

TOTAL WARRANT REGISTER\$4,868,897.18

Payroll Register

Warrant Nos. 533 through 536 and Automatic Deposit Advises 35598 through 35896 for the period of 9/26/16 through 10/9/16, paid on 10/14/2016, in the amount of \$420,233.77

TOTAL PAYROLL REGISTER \$420,233.77

D. [Notice of Completion – FY 2015 Sidewalk Repair Program](#) Pages 6-D-1 through 6-D-4

Staff Recommendation

1. Accept the FY 2015 Sidewalk Repair Program (Project No. 19317), from the contractor, Unique Performance Construction, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the FY 2015 Sidewalk Repair Program.

Staff Recommendation continued on following page

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 Unique Performance Construction, 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. **[Final Parcel Map 2014-126 – 907 Avenida Pico \(Chase Bank\)](#)** Pages 6-E-1 through 6-E-3

Staff Recommendation

1. Accept on behalf of the City of San Clemente, the water rights as dedicated.
2. Approve Final Parcel Map 2014-126 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map.
3. Authorize the Public Works Director/City Engineer to execute the Final Parcel Map.
4. Authorize the City Clerk to execute and submit the Final Parcel Map to the County of Orange for recordation.

F. **[Notice of Completion – FY 2016 Major Street Maintenance for Avenida Barcelona, Trafalgar Lane, Arenoso Lane, Linda Lane and Via Mecha](#)** Pages 6-F-1 through 6-F-4

Staff Recommendation

1. Accept the FY 2016 Major Street Maintenance for Avenida Barcelona, Trafalgar Lane, Arenoso Lane, Linda Lane and Via Mecha (Project No. 26301), from the contractor, Palp, Inc. DBA Excel Paving Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the street rehabilitation for FY 2016 Major Street Maintenance for Avenida Barcelona, Trafalgar Lane, Arenoso Lane, Linda Lane, and Via Mecha.
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, Palp, Inc. DBA Excel Paving Company.
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 (an increase of \$6,900).

- G. [Contract Amendment – Electronic Document Indexing Services](#) Pages 6-G-1 through 6-G-4

Staff Recommendation

Approve, and authorize the Mayor to execute, Amendment No. 4 to Contract C14-56, by and between the City of San Clemente and Maris Imaging Solutions LLC, providing for electronic document indexing services for the City's Building Division. This contract amendment increases the contract amount from \$35,000 to \$60,000, an increase of \$25,000.

- H. [Contract Amendment – Temporary Staff Augmentation in the Planning Division](#) Pages 6-H-1 through 6-H-8

Staff Recommendation

1. Approve a budget transfer in the amount of \$50,472 from Account 001-433-41010-000-00000 (Salaries, Full Time) to Account 001-431-43890-000-00000 (Contractual Services).
2. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract AC-710, by and between the City of San Clemente and Civic Solutions, providing for a temporary Planning Technician. This contract amendment increases the contract amount from \$25,000 to \$40,486, an increase of \$15,486, and extends the term of the contract through February 15, 2017, or until services are no longer needed.
3. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract AC-699, by and between the City of San Clemente and Civic Solutions, providing for a temporary Part-Time Planning Assistant. This contract amendment increases the contract amount from \$25,000 to \$59,986, an increase of \$34,986, and extends the term of the contract through March 29, 2017, or until services are no longer needed.

- I. [Grant Revenue and Supplemental Appropriation – San Clemente Trolley](#) Pages 6-I-1 through 6-I-2

Staff Recommendation

1. Accept grant revenue from the Orange County Transportation Authority in the amount of \$542,900 for FY 2017 to Account 019-819-33790-000-00000, Other County Grants.
2. Approve a supplemental appropriation of \$543,100 in the Air Quality Improvement Fund, to Account 019-819-45300-000-00000 for the San Clemente Trolley Project.

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. [Regulation of Personal, Medical and Commercial Use of Marijuana - Zoning Amendment 16-313](#) Pages 7-A-1 through 7-A-48

Continued Public Hearing to consider amending the Code of the City of San Clemente, to regulate the personal, medical, and commercial use of marijuana.

Staff Recommendation

Introduce Ordinance No. 1632 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING TITLE 9 OF THE SAN CLEMENTE MUNICIPAL CODE TO ESTABLISH REASONABLE REGULATIONS OF LIMITED HOME CULTIVATION OF MARIJUANA FOR PERSONAL USE AND APPROVING ZONING AMENDMENT 16-313, AMENDING TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE, TO REGULATE THE PERSONAL, MEDICAL, AND COMMERCIAL USE OF MARIJUANA.

8. **Unfinished Business.**

None.

9. **New Business.**

A. [Building Code Regulations and Local Amendments](#) Pages 9-A-1 through 9-A-70

Report from the Community Development Director concerning adoption of building code regulations and local amendments.

Staff Recommendation

1. Introduce Ordinance No. 1636 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTERS 15.08, 15.12, 15.16, 15.20, 15.21, 15.22, AND 15.23 OF TITLE 15 OF THE SAN CLEMENTE MUNICIPAL CODE ADOPTING BUILDING REGULATIONS.

Staff Recommendation continued on following page

2. Adopt Resolution No. 16-67 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, SETTING FORTH FINDINGS WITH RESPECT TO LOCAL CONDITIONS WITHIN THE CITY OF SAN CLEMENTE WHICH MAKE CERTAIN MODIFICATIONS AND CHANGES TO THE CALIFORNIA BUILDING CODE, THE CALIFORNIA RESIDENTIAL CODE, THE CALIFORNIA ELECTRICAL CODE, THE CALIFORNIA MECHANICAL CODE, THE CALIFORNIA PLUMBING CODE, THE CALIFORNIA EXISTING BUILDING CODE AND THE CALIFORNIA GREEN BUILDING STANDARDS CODE REASONABLY NECESSARY FOR VARIOUS OCCUPANCIES.
3. Set the Building Codes for Public Hearing on November 15, 2016 and direct Staff to advertise the Public Hearing as required by State Law.

B. **Fire Code Regulations and Local Amendments** Pages 9-B-1 through 9-B-42

Report from the Community Development Director concerning adoption of fire code regulations and local amendments.

Staff Recommendation

1. Introduce Ordinance No. 1637 entitled AN ORDINANCE OF THE CITY COUNCIL OF SAN CLEMENTE AMENDING CHAPTER 8.16 OF THE SAN CLEMENTE MUNICIPAL CODE AND ADOPTING FIRE CODE REGULATIONS FOR THE CITY OF SAN CLEMENTE.
2. Adopt Resolution No. 16-68 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, SETTING FORTH FINDINGS WITH RESPECT TO LOCAL CONDITIONS WITHIN THE CITY OF SAN CLEMENTE WHICH MAKE CERTAIN MODIFICATIONS AND CHANGES TO THE CALIFORNIA FIRE CODE NECESSARY FOR VARIOUS OCCUPANCIES.
3. Set the Fire Code for Public Hearing on November 15, 2016 and direct Staff to advertise the Public Hearing as required by State Law.

- C. [Alleged Violation of City Code of Ethics Policy 1202-1](#) Pages 9-C-1 through 9-C-17

Report from the City Clerk concerning an alleged violation of the City Code of Ethics Policy 1202-1.

Staff Recommendation

Conduct an investigation of the formal written complaint, dated October 20, 2016, and take one of the below actions.

1. If Council determines, by majority vote, that the allegation merits formal review, Staff recommends that Council direct Staff to return to Council at its meeting of November 15, 2016, with recommendations for an independent hearing officer to conduct a formal investigation and a person responsible for presenting the complainant's position.
2. If Council determines, by majority vote, that it is not likely that a violation occurred, Staff recommends that Council direct the City Clerk to dismiss the complaint and notify the complainant and the person named in the complaint of that action.

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.**

- A. [Ordinance No. 1634 \(Second Reading\) – Implementation of State Law \(SB2\), the Emergency Shelter Act](#) Pages 12-A-1 through 12-A-10

Staff Recommendation

Adopt Ordinance No. 1634 entitled AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA TO AMEND SECTION 17.56.100 OF THE MUNICIPAL CODE TO IMPLEMENT SENATE BILL 2 (“SB 2”), THE EMERGENCY SHELTER ACT.

- B. [Ordinance No. 1635 \(Second Reading\) – Conflict of Interest Code](#) Pages 12-B-1 through 12-B-2

Staff Recommendation

Adopt Ordinance No. 1635 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 2.24 OF THE CODE OF THE CITY OF SAN CLEMENTE RELATING TO THE CITY’S CONFLICT OF INTEREST CODE.

13. **Adjournment.**

Adjourn in memory of Lynn Hughes. The next Regular City Council Meeting will be held on November 15, 2016 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.

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.

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 Office 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 Office, located at 100 Avenida Presidio, San Clemente, during normal business hours.

The City Clerk's Office 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.