



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

September 5, 2017
4:30 p.m. – Closed Session
6:00 p.m. – Business Meeting

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

RULES FOR ADDRESSING COUNCIL

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

MISSION STATEMENT

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

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

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

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

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

CLOSED SESSION – SPECIAL MEETING (4:30 P.M.)

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957
Title: City Manager

B. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6
Agency designated representative: Mayor
Unrepresented employee: City Manager

C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of Cases: 7

Case Name: Sober Network Properties et al. v. City of San Clemente
Case Number: USDC 8:16-cv-00668

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: MemorialCare Services, et al. v. City of San Clemente
Case Number: OCSC 30-2016-00845211 CU-WM-CJC

Case Name: Emergency Shelter Coalition v. City of San Clemente
Case Number: OCSC 30-201400758880

Closed Session items continued on next page

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

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor
Agency and County of Orange
Case Number: 30-2017-00934703-CU-PT-CXC

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Property: 100 Avenida Presidio
Agency Negotiator: Erik Sund, Assistant City Manager
Negotiating Parties: Potential buyers/lessees/listing
Under Negotiation: Price and terms of payment

BUSINESS MEETING – REGULAR MEETING (6:00 P.M.)

CALL TO ORDER

INVOCATION - Holland Davis, Senior Pastor, Calvary Chapel San Clemente

PLEDGE OF ALLEGIANCE

ROLL CALL

1. Special Presentations.

A. Toll Road Update

Update by Staff concerning the proposed toll road.

B. Presentation of Proclamation – Constitution Week

Presentation of Proclamation to Bertie Lloyd, Daughters of the American Revolution, proclaiming September 17 - 23, 2017 as Constitution Week.

C. Certificate of Recognition – Kendall Stier

Presentation of a Certificate of Recognition to Kendall Stier for demonstrating academic excellence together with athletic achievement, as evidenced by winning the Gold Medal for Women’s Shot Put at the 2017 U.S. Paralympics National Championships.

D. Presentation of Proclamation – World Alzheimer’s Month

Presentation of Proclamation to Christina McDevitt, representing Alzheimer’s Orange County, designating September 2017 as World Alzheimer’s Month.

E. Animals for Adoption at the San Clemente Animal Shelter

Report by Councilmember Swartz concerning animals available for adoption at the San Clemente Animal Shelter.

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 agenda items requiring immediate action.** Any items agendaized 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 August 15, 2017.
 - B. **Receive and file:**
 - (1) [Minutes of the Regular Planning Commission Study Session of July 19, 2017.](#)
 - (2) [Minutes of the Regular Planning Commission Meeting of July 19, 2017.](#)
 - (3) [Minutes of the Regular Coastal Advisory Committee Meeting of July 13, 2017.](#)

- (4) [Minutes of the Special Planning Commission Study Session of August 16, 2017.](#)
- (5) [Minutes of the Special Planning Commission Meeting of August 16, 2017.](#)

C. Warrant Register

[Approve Wire Transfers Nos. 1678 through 1679,
Warrant Nos. 543564 through 543814
paid on 8/11/17, in the amount of.....\\$ 1,932,895.66](#)

[Approve Wire Transfers Nos. 1680 through 1683,
Warrant Nos. 543815 through 543984
paid on 8/18/17, in the amount of.....\\$ 2,368,949.12](#)

[Approve Wire Transfers Nos. 1684 through 1687,
Warrant Nos. 543985 through 544197
paid on 8/25/17, in the amount of.....\\$ 905,756.99](#)

TOTAL WARRANT REGISTER..... \$ 5,207,601.77

Payroll Register

Approve Warrant Nos. 42273 through 42622
for the period of 7/31/17 through 8/13/17
paid on 8/18/17, in the amount of.....\$ 484,658.00

TOTAL PAYROLL REGISTER.....\$ 484,658.00

D. [Notice of Completion – FY 2017 Major Street Maintenance for Avenida Ortega, Calle Del Cerrito, Ardilla Lane, Calle Gomez, Calle Del Rito, East Avenida Magdalena, Los Bautismos Lane and Various Other Pavement Repair Locations](#) Pages 6D-1 through 6D-4

Staff Recommendation

1. Accept the FY 2017 Major Street Maintenance for Avenida Ortega, Calle Del Cerrito, Ardilla Lane, Calle Gomez, Calle Del Rito, East Avenida Magdalena, Los Bautismos Lane, and various other pavement repair locations (Project Nos. 27305 and 27306), from the contractor, All American Asphalt.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for FY 2017 Major Street Maintenance for Avenida Ortega, Calle Del Cerrito, Ardilla Lane, Calle Gomez, Calle Del Rito, East Avenida Magdalena, Los Bautismos Lane, and various other pavement repair locations.

Staff Recommendation continued on next 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 the contractor, All American Asphalt.
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 – Community Development Block Grant (CDBG) Calle Puente Sidewalk Improvements** Pages 6E-1 through 6E-4

Staff Recommendation

1. Accept the CDBG Calle Puente Sidewalk Improvements (Project No. 17336), from the contractor, Nobest, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for CDBG Calle Puente Sidewalk Improvements.
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, Nobest, 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.

F. **Contract Amendment – Reservoir 5A, 8, 10, 12 and 14 Improvements** Pages 6F-1 through 6F-2

Staff Recommendation

Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract AC-696, by and between the City of San Clemente and South Coast Engineering Services, providing for construction period design support services and specialty inspections for the Reservoir improvement projects. This amendment increases the contract amount from \$23,430 to \$59,272, an increase of \$35,842, and extends the term of the contract to December 29, 2018.

- G. [Contract Award – Water Reclamation Plant Los Molinos Lift Station Generator Replacement](#) Pages 6G-1 through 6G-2

Staff Recommendation

Approve, and authorize the Mayor to execute, Contract C17-37, by and between the City of San Clemente and PACE, providing for design of the Water Reclamation Plant Los Molinos Lift Station Generator Replacement (Project No. 17202), in the amount of \$123,435.

- H. [Contract Amendment – Water Reclamation Plant Structural Concrete Repairs and Primary Clarifier Covers and Grating Replacement](#) Pages 6H-1 through 6H-3

Staff Recommendation

Approve, and authorize the Mayor to execute, Amendment No. 3 to Contract C15-09, by and between the City of San Clemente and South Coast Engineering Services, providing for additional design, and construction and bid period support services for the Water Reclamation Plant Primary Clarifiers and Headworks Covers Replacement project. This amendment increases the contract amount from \$165,740 to \$209,435, an increase of \$43,695, and extends the term of the contract to December 1, 2018.

- I. [Declaration of Surplus and Disposition of Retired Equipment \(Utilities Division\)](#) Pages 6I-1 through 6I-2

Staff Recommendation

1. Declare the Utilities Division equipment listed on Attachment 1 of the Administrative Report, dated September 5, 2017, and on file with the City Clerk, as surplus.
2. Approve and authorize Ken Porter Auctions to perform public auctioning services for the surplus equipment listed on Attachment 1.

- J. [California WaterFix Project](#) Pages 6J-1 through 6J-6

Staff Recommendation

Adopt Resolution No. 17-28 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IN SUPPORT FOR THE CALIFORNIA WATERFIX.

- K. [Notice of Completion – Recycled Water Meter Services](#) Pages 6K-1 through 6K-3

Staff Recommendation

1. Accept the Recycled Water Meter Services, Project No. 18201, from the contractor, Nu-Cal Pipeline Corp.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for Recycled Water Meter Services.
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 Nu-Cal Pipeline Corp.
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. [Contract Award – FY 2018 Slurry Seal Program](#) Pages 6L-1 through 6L-7

Staff Recommendation

1. Approve the plans and specifications for the FY 2018 Slurry Seal Program, Project No. 28302.
2. Approve, and authorize the Mayor to execute, Contract C17-38 by and between the City of San Clemente and Doug Martin Contracting Company, Inc., providing for the FY 2018 Slurry Seal Program, in the amount of \$237,898.72.
3. Approve a transfer in the amount of \$36,000 from the fund balance of the Street Improvement Fund to General Fund Account 001-416-45720-28302.

- M. [Declaration of Surplus and Disposition of Retired Fleet Equipment and Vehicles](#) Pages 6M-1 through 6M-2

Staff Recommendation

1. Declare the fleet equipment and vehicles identified on Attachment 1 of the Administrative Report, dated September 5, 2017, and on file with the City Clerk, as surplus.
2. Approve and authorize GovDeals.com and Ken Porter Auctions to perform public auctioning services for the surplus equipment and vehicles listed on Attachment 1.

N. [Designation of Legal Fees](#) Page 6N-1

Staff Recommendation

Approve the estimated legal costs for the case entitled Jim Bieber v. City of San Clemente, et al.

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. [2016-2017 Consolidated Annual Performance Evaluation Report \(CAPER\) for Expenditure of Community Development Block Grant \(CDBG\) Funds](#) Pages 7A-1 through 7A-93

Public Hearing concerning the 2016-2017 Consolidated Annual Performance Evaluation Report (CAPER) for submittal to the U.S. Department of Housing and Urban Development.

Staff Recommendation

Approve and adopt the 2016-17 Consolidated Annual Performance Evaluation Report (CAPER) for submittal to the U.S. Department of Housing and Urban Development.

- B. [2013-2021 Housing Element Update and Amendment to the Emergency Shelter Overlay Zone - General Plan Amendment 15-331 and Zoning Amendment 17-251](#) Pages 7B-1 through 7B-297

Public Hearing to consider the Draft Housing Element for the 2013-2021 State planning period as required by State Law and amendments to the Emergency Shelter Overlay that include, but are not limited to, separation between shelters operated by the same provider, parking, shelter operator, and submission of Emergency and Management Plans. The Housing Element identifies the goals and policies to meet the City's housing objectives.

Staff Recommendation

1. Adopt Resolution No. 17-29 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING AN ADDENDUM TO THE PREVIOUSLY CERTIFIED SAN CLEMENTE CENTENNIAL GENERAL PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2013041021) REGARDING THE 2013-2021 HOUSING ELEMENT UPDATE, AND APPROVING GENERAL PLAN AMENDMENT, GPA 15-331 TO ADOPT THE HOUSING ELEMENT UPDATE.
2. Authorize Staff to provide the adopted Housing Element to the Department of Housing and Community Development.
3. Introduce Ordinance No. 1645 entitled AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SUBDIVISIONS D.1, D.5, E.1 AND E.4 OF SECTION 17.56.100 OF CHAPTER 17.56, TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO EMERGENCY SHELTERS, PURSUANT TO AN ADDENDUM TO THE PREVIOUSLY CERTIFIED SAN CLEMENTE CENTENNIAL GENERAL PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2013041021).

8. **Unfinished Business.**

- A. [Water Reservoir No. 1 Tree Removal](#) Pages 8A-1 through 8A-10

Report from the Public Works Director/City Engineer concerning removal of trees at Water Reservoir No. 1.

Staff Recommendation

Provide direction concerning removal of trees at Water Reservoir No. 1.

B. [Water Utility Cost-of-Service Fee Structure](#) Pages 8B-1 through 8B-4

Report from the Assistant City Manager concerning the water utility cost-of-service fee structure.

Staff Recommendation

1. Approve the uniform rate structure for the single-family residential customer classification.
2. Authorize completion of the Cost-of-Service Study.
3. Direct Staff to prepare the Proposition 218 notice for a future Public Hearing regarding the proposed water rate structure changes.

9. **New Business.**

A. [Removal and Replacement of Esplanade Median Trees](#) Pages 9A-1 through 9A-18

Report from the Public Works Director/City Engineer concerning the removal and replacement of the Esplanade median trees.

Staff Recommendation

1. Approve the removal of 17 diseased trees within the Esplanade street median (100 and 200 blocks) and approve planting of 21 new Brazilian Pepper trees.

B. [Contract Award – San Clemente Pier Repair and Understory Bird Deterrent](#) Pages 9B-1 through 9B-5

Report from the Public Works Director/City Engineer concerning a contract award for the San Clemente Pier Repair and Understory Bird Deterrent project.

Staff Recommendation

1. Approve the plans and specifications for the San Clemente Municipal Pier Repair and Understory Bird Deterrent, Project Nos. 16811 and 18810 respectively.
2. Approve, and authorize the Mayor to execute, Contract C17-39, by and between the City of San Clemente and Associated Pacific Contractors, Inc., providing for the construction of the San Clemente Municipal Pier Repair and Understory Bird Deterrent, in the amount of \$1,953,500.

- C. [Integrated Pest Management \(IPM\) Policy No. 801-4](#) Pages 9C-1 through 9C-25

Report from the Public Works Director/City Engineer concerning approval of an Integrated Pest Management (IPM) Policy.

Beaches, Parks and Recreation Commission Recommendation

Approve and adopt City Policy No. 801-4, entitled "Integrated Pest Management."

- 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

- (1) [City Position on Resolutions Being Considered by the League of California Cities at the 2017 Annual Conference](#) Pages 11D(1)-1 through 11D(1)-39

Staff Recommendation

Determine whether or not to support the following resolutions which will be considered by the League of California Cities General Assembly on September 15, 2017:

1. Resolution calling upon the Governor and Legislature to enter into discussions with League and other public safety stakeholders to identify and implement strategies that will reduce the unintended negative impacts of existing criminal law.
2. Resolution supporting legislation amending Government Code Section 38611 to clarify the definition of local control, providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

12. Resolutions/Ordinances.

- A. [Ordinance No. 1644 \(Second Reading\) – Speed Zones on Avenida La Pata](#)
Pages 12A-1 through 12A-2

Staff Recommendation

Adopt Ordinance No. 1644 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 10 OF THE MUNICIPAL CODE CONCERNING SPEED ZONES ON AVENIDA LA PATA.

13. Adjournment.

The next Regular Council Meeting will be held on September 19, 2017 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 854. 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.