



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 4, 2018
4:30 p.m. - Closed Session
6:00 p.m. - Business Meeting

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

RULES FOR ADDRESSING COUNCIL

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

MISSION STATEMENT

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

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

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

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

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

CLOSED SESSION (4:30 P.M.)

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

Number of Cases: 5

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor Agency and County of Orange

Case Number: OCSC 30-2017-00934703-CU-PT-CXC

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor Agency

Case Number: OCSC 30-2018-01000331-CU-WM-CJC

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

Case Number: OCSC 30-2017-00954552-CU-BC-CJC

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

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

Case Name: Anthem Sales and Management, LLC, et al. v. City of San Clemente

Case Number: OCSC 30-2018-01008216; USDC 8:18-cv-01359

B. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(4)

Initiation of litigation

Number of potential cases: 3

Closed Session items continued on next page

C. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Significant Exposure to Litigation

Number of potential cases: 2

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: S. La Esperanza Avenue, San Clemente

APN # 690-012-02

Agency Negotiator: Erik Sund, Assistant City Manager

Negotiating Parties: City of San Clemente and HTL Hospitality Advisors, LLC

Under Negotiation: Price and Terms of Payment for Purchase

E. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code section 54957

Title: City Manager

F. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Mayor

Unrepresented employee: City Manager

BUSINESS MEETING (6:00 P.M.)

CALL TO ORDER

INVOCATION - Pastor Neal Nybo, San Clemente Presbyterian Church

PLEDGE OF ALLEGIANCE

ROLL CALL

1. Special Presentations.

A. **Toll Road Update**

B. **Proclamation Presentation - Constitution Day**

Presentation of a proclamation to Melissa Bergier and Pat Mueller, of the Daughters of the American Revolution, declaring September 17, 2018 as Constitution Day.

C. **Presentation by the Chamber Downtown Parking Committee Concerning the Consensus Parking Report**

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 City Council Special Meeting minutes of August 9, 2018.](#)
 - B. Receive and file:
 - (1) [Beaches, Parks and Recreation Commission Regular Meeting minutes of July 10, 2018.](#)
 - (2) [Zoning Administrator Regular Meeting minutes of August 9, 2018.](#)
 - (3) [Zoning Administrator Regular Meeting minutes of August 23, 2018.](#)

C. **Warrant Register**

Approve Wire Transfers Nos. 1882 through 1887 and Warrant Nos. 552490 through 552643, paid on 8-17-18, in the amount of.....\$ 3,837,669.55

Approve Wire Transfers Nos. 1888 through 1891 and Warrant Nos. 552644 through 552825, paid on 8-24-18, in the amount of.....\$ 3,524,114.22

TOTAL WARRANT REGISTER.....\$ 7,361,783.77

Payroll Register

Approve Warrant Nos. 688 through 690, Automatic Deposit Advises 50346 through 50678, for the period 7-30-18 through 8-12-18, paid on 8-17-18, in the amount of.....\$ 516,057.18

TOTAL PAYROLL REGISTER.....\$ 516,057.18

D. **Contract Amendment - Sewer Line Root Control Services** Page 6D-1

Staff Recommendation

1. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract AC-767, by and between the City of San Clemente and Duke's Root Control, Inc., relating to sewer line root control services. This Amendment extends the term of the contract and increases the contract amount from \$24,500 to \$39,500 (an increase of \$15,000).
2. Approve and authorize the City Manager to extend Contract AC-767 for an additional twelve months for an amount not to exceed \$20,000.

E. **Contract Ratifications - Emergency Repairs to the 1030 Calle Negocio Fire Suppression System** Pages 6E-1 through 6E-2

Staff Recommendation

1. Make a finding that an emergency existed due to the need to replace damaged fire water service components which service the 1030 Calle Negocio building to re-establish a properly functioning fire suppression system as quickly as possible.

Staff Recommendation continued on next page

2. Approve a supplemental appropriation in the amount of \$93,620 from the General Fund Unassigned Fund Balance to Account 001-617-45700-000-29802 (Major Maintenance Improvements).
3. Recognize cost-sharing revenue of \$18,460 from the 1040 Calle Negocio building owner to the General Fund.
4. Ratify the purchase order contract approved by the City Manager with Doheny Plumbing (Contract C18-32), in the amount of \$36,920, to conduct emergency repair of the fire suppression system valve assembly for the 1030 Calle Negocio building.
5. Ratify the purchase contract with Patrol One (Contract C18-40), in the amount of \$56,700, for fire watch services related to the 1030 Calle Negocio fire suppression system repair.

F. **Conflict of Interest Code Biennial Update** Pages 6F-1 through 6F-20

Staff Recommendation

Adopt Resolution No. 18-27 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974.

G. **Conceptual Striping Plan and Class II Bicycle Lanes on Camino Mira Costa and Camino Capistrano** Pages 6G-1 through 6G-16

Planning Commission and Staff Recommendation

1. Approve the conceptual design for the striping plan and Class II bicycle lanes on Camino Mira Costa and Camino Capistrano as provided in Attachments 2 and 3-Alt 2 of the Administrative Report, dated September 4, 2018, which is on file with the City Clerk.
2. Approve re-striping Camino Mira Costa from four vehicular lanes to two vehicular lanes with a center turn lane from Camino Estrella to Camino Capistrano.
3. Approve re-striping Camino Capistrano from four vehicular lanes to two vehicular lanes from N. El Camino Real to the City border at Del Gado Road, and additional turn lanes at the intersections of N. El Camino Real and Avenida Vaquero.
4. Approve and direct Staff to seek OCTA approval to change the MPAH designation of portions of Camino Mira Costa and Camino Capistrano.

- H. [Contract Award - Street Improvement Project FY 2018](#) Pages 6H-1 through 6H-4

Staff Recommendation

1. Approve the plans and specifications for the Street Improvement Project - FY 2018, Project No. 18327.
2. Approve, and authorize the City Manager to execute, Contract C18-38 by and between the City of San Clemente and PALP, Inc., dba Excel Paving Company, providing for the FY 2018 Street Improvement Project (involving Calle Puente, Vista Cantora, Avenida Rosa, Avenida Madrid, Cazador Lane, Avenida Barcelona, Via Delfin, Avenida Junipero, and Avenida Calafia), in the amount of \$1,542,924.50.

- I. [Agreement with County of Orange for Subdivision Map Checking Services](#) Pages 6I-1 through 6I-2

Staff Recommendation

Approve, and authorize the Mayor to execute, Amendment No. 4 to Agreement No. D07-028, which allows the City to join the existing agreement that other cities have with the County of Orange to provide all subdivision map checking services. (City Contract C18-39)

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

None.

8. **Unfinished Business.**

A. [Integrated Pest Management Policy No. 801-5](#) Pages 8A-1 through 8A-8

Report from the Public Works Director concerning the possibility of approving City Policy No. 801-5 entitled "Integrated Pest Management".

Staff Recommendation

Approve and adopt City Policy No. 801-5 entitled "Integrated Pest Management."

B. [Code Amendment - Modifying the Definition of "Smoking" to Include Vaping and Electronic Devices](#) Pages 8B-1 through 8B-6

Report from the City Attorney concerning the possibility of amending the Code of the City of San Clemente to define "smoking" to include vaping and electronic devices.

Staff Recommendation

Introduce Ordinance No. 1659 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING THE SAN CLEMENTE MUNICIPAL CODE, CHAPTER 8.64 TO DEFINE SMOKING TO INCLUDE VAPING AND ELECTRONIC SMOKING DEVICES.

9. **New Business.**

A. [Master Plan Amendment to San Luis Rey Park and San Gorgonio Park for the Planned Use of Pickleball On Tennis Courts](#) Pages 9A-1 through 9A-5

Report from the Assistant City Manager concerning the possibility of amending the Master Plan for San Luis Rey Park and San Gorgonio Park for the planned use of Pickleball on tennis courts.

Staff Recommendation

1. Approve a master plan amendment to San Luis Rey Park and San Gorgonio Park to add pickleball as a planned use of the park.
2. Approve a pilot pickleball program that includes the addition of lines for four pickleball courts at San Luis Rey on Court #4 and for four pickleball courts at San Gorgonio Park on Court #2.
3. Designate the priority use of pickleball at San Luis Rey Park on Sundays and Thursdays and at San Gorgonio Park on Mondays and Wednesdays for the duration of the pilot pickleball program.

B. [Code Amendment - Possession of Open Containers of Alcohol in Public Places](#) Pages 9B-1 through 9B-6

Report from the City Attorney concerning the possibility of amending the Code of the City of San Clemente to prohibit possession of open containers of alcohol in public places.

Staff Recommendation

Introduce Ordinance No. 1663 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING THE SAN CLEMENTE MUNICIPAL CODE, CHAPTER 9.04 TO PROHIBIT POSSESSION OF OPEN CONTAINERS OF ALCOHOL IN PUBLIC PLACES.

C. [Code Amendment - Removal of Code Language Relating to Status Crimes and to Consolidate Provisions Regarding Penalties and Administrative Fines](#) Pages 9C-1 through 9C-52

Report from the City Attorney concerning the possibility of amending the Code of the City of San Clemente to remove language relating to status crimes and to consolidate provisions regarding penalties and administrative fines.

Staff Recommendation

Introduce Ordinance No. 1664 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING THE SAN CLEMENTE MUNICIPAL CODE TO REMOVE LANGUAGE RELATING TO STATUS CRIMES AND TO CONSOLIDATE PROVISIONS REGARDING PENALTIES AND ADMINISTRATIVE FINES.

D. [City Attorney Services Amended Retainer Fee](#) Pages 9D-1 through 9D-23

Report from the Assistant City Manager concerning the possibility of approving a retainer fee amendment to the agreement with Best Best & Krieger for City Attorney services.

Staff Recommendation

Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C15-12, by and between the City of San Clemente and the law firm of Best Best & Krieger, relating to City Attorney Services.

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 2018 Annual Conference](#) Pages 11D(1)-1 through 11D(1)-55

Staff Recommendation

Determine whether or not to support the following resolutions that will be considered by the League of California Cities at its General Assembly Meeting on September 14, 2018:

1. Resolution calling upon the League to respond to the increasing vulnerabilities to local municipal authority, control and revenue and explore the preparation of a ballot measure and/or Constitutional amendment that would further strengthen local democracy and authority.
2. Resolution declaring the League's commitment to support the repeal of preemption in California Food and Agriculture Code §11501.1 that prevents local governments from regulating pesticides.

12. **Resolutions/Ordinances.**

- A. [Ordinance No. 1660 \(Second Reading\) - Sign Regulations to Include a Mural Permit and Amending Definitions of Murals](#) Pages 12A-1 through 12A-6

Staff Recommendation

Adopt Ordinance No. 1660 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, MAKING CEQA FINDINGS AND FOR A CITY-INITIATED AMENDMENT (ZA 17-203) TO THE MUNICIPAL CODE CHAPTER 17.84 SIGN REGULATIONS TO INCLUDE A MURAL PERMIT AND CHAPTER 17.88.030 DEFINITIONS TO AMEND THE DEFINITIONS OF MURALS.

- B. [Ordinance No. 1661 \(Second Reading\) - Use of Bicycles, Including Electric Bicycles Class 1, Class 2, and Class 3, and Other Activities on the Pier, Beach Access Road, Beach and Beach Trail](#) Pages 12B-1 through 12B-3

Staff Recommendation

Adopt Ordinance No. 1661 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 12.32.130 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE USE OF BICYCLES, INCLUDING ELECTRIC BICYCLES CLASS 1, CLASS 2, AND CLASS 3, AND OTHER ACTIVITIES ON THE PIER, BEACH ACCESS ROAD, BEACH AND BEACH TRAIL.

- C. [Ordinance No. 1662 \(Second Reading\) - Prohibition of Smoking in Beach Parking Lots, Public Park Parking Lots, and Open Space; Requiring that Public Parking Lots be Used Only for Parking; and Requiring that Parking Meter Zones be Used Only for Parking](#) Pages 12C-1 through 12C-5

Staff Recommendation

Adopt Ordinance No. 1662 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING THE SAN CLEMENTE MUNICIPAL CODE, CHAPTERS 8.64 TO PROHIBIT SMOKING IN BEACH PARKING LOTS, PUBLIC PARK PARKING LOTS, AND OPEN SPACE; 10.28 TO REQUIRE THAT PUBLIC PARKING LOTS BE USED ONLY FOR PARKING; AND 10.40 TO REQUIRE THAT PARKING METER ZONES BE USED ONLY FOR PARKING.

13. **Adjournment.**

The next Regular Council Meeting will be held on September 18, 2018 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 5:00 p.m. and the Regular Business Meeting will take place at 6:00 p.m.

CITY COUNCIL MEETING PROCEDURES

PRESENTATION OF WRITTEN MATERIALS TO COUNCIL

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

MEETINGS RECORDED AND TELEVISED

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

USE OF ELECTRONIC VISUAL AIDS BY PUBLIC AT MEETINGS

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

LENGTH OF MEETINGS

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

AMERICANS WITH DISABILITIES ACT

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

COMMUNICATION DEVICES

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

MEETING SCHEDULE

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

AGENDAS, ADMINISTRATIVE REPORTS AND SUPPLEMENTAL WRITTEN MATERIALS

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

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